

THE PITTSBURGH & LAKE ERIE RAILROAD COMPANY

GORDON E. NEUENSCHWANDER
VICE PRESIDENT & GENERAL COUNSEL

G. EDWARD YURCON
ASSISTANT GENERAL COUNSEL

RICHARD A. PORACH
ATTORNEY

324 P&LE TERMINAL BUILDING
PITTSBURGH, PA. 15219
PHONE (412) 261-3201

June 29, 1978

Ms. Nancy L. Wilson
Acting Secretary
Interstate Commerce Commission
12th and Constitution Ave., N.W.
Washington, D. C. 20423

91.95
RECORDATION NO. Filed & Recorded

JUN 30 1978 - 9 55 AM

INTERSTATE COMMERCE COMMISSION

RECEIVED
JUN 30 9 53 AM '78
I.C.C.
FEE OPERATION BR.

Dear Ms. Wilson:

Enclosed for filing with the Commission pursuant to Section 20c of the Interstate Commerce Act are the original documents described below, together with four additional counterparts of each. The documents are:

Conditional Sale Agreement, dated as of May 15, 1978, between Project Finance Corporation and The Pittsburgh and Lake Erie Railroad Company, providing for the purchase of 370 70-ton rebuilt open top hopper cars (P&LE Nos. 64500-64869, inclusive), and

Agreement and Assignment, dated as of May 15, 1978, between Project Finance Corporation and Pittsburgh National Bank.

In compliance with the Commission's rules and regulations, you are advised as follows:

VENDOR: Project Finance Corporation
3420 Mellon Bank Building
Pittsburgh, Pennsylvania 15219

BUYER: The Pittsburgh and Lake Erie Railroad Company
P&LE Terminal Building
Pittsburgh, Pennsylvania 15219

ASSIGNOR: Same as Vendor above

ASSIGNEE: Pittsburgh National Bank
Fifth and Wood Streets
Pittsburgh, Pennsylvania 15222

8-181A020

Date JUN 30 1978
Fee \$ 50

Washington, D. C.

Clarence J. Michael
Gary D. Michael

Mr. Nancy L. Wilson

-2-

June 29, 1978

The following is a general description of the railroad rolling stock covered by said documents:

<u>No. of Units:</u>	<u>Description</u>	<u>A.A.R. Mechanical Designation</u>	<u>Identifying Road Nos.</u>
370	70-ton rebuilt open hopper cars	HT	P&LE-64500-64869, inclusive

Each of the units of rolling stock subject to the Conditional Sale Agreement has been marked on each side thereof with the following words:

"Ownership Subject to a Security Agreement
Filed under the Interstate Commerce Act,
Section 20c".

There is also enclosed Pittsburgh and Lake Erie Railroad Company voucher in the amount of \$50.00, payable to the Treasurer of the United States, to cover the recordation fee.

Please acknowledge receipt at your earliest convenience by stamping and returning to me the original documents, together with two counterparts.

Very truly yours,

Gordon E. Heuschwaender

encs.

Interstate Commerce Commission
Washington, D.C. 20423

6/30/78

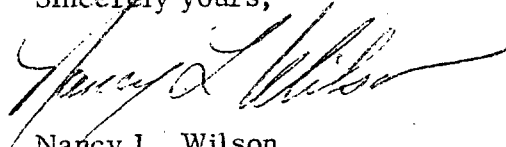
OFFICE OF THE SECRETARY

**Gordon E. Neuenschwander
Vice Pres.& Gen. Counsel
The Pittsburgh & Lake Erie RR Cp
324 P&LE Terminal Building
Pittsburgh, Pa. 15219**

Dear **Sir:**

The enclosed document(s) was recorded pursuant to the
provisions of Section 20(c) of the Interstate Commerce Act,
49 U.S.C. 20(c), on **6/30/78** at **9:55am**,
and assigned recordation number(s) **9495**

Sincerely yours,



Nancy L. Wilson
Acting Secretary

Enclosure(s)

9495
RECORDATION NO. _____ Filed & Recorded

JUN 30 1978 -9 11 AM

INLAND COMMERCE COMMISSION

CONDITIONAL SALE AGREEMENT

Dated as of May 15, 1978

Between

PROJECT FINANCE CORPORATION

and

THE PITTSBURGH AND LAKE ERIE
RAILROAD COMPANY

AGREEMENT AND ASSIGNMENT

Dated as of May 15, 1978

Between

PROJECT FINANCE CORPORATION

and

PITTSBURGH NATIONAL BANK

CONDITIONAL SALE AGREEMENT, dated as of May 15, 1978, between PROJECT FINANCE CORPORATION, a Pennsylvania corporation (hereinafter called the Vendor or Owner, as more particularly set forth in Article 27 hereof), and THE PITTSBURGH AND LAKE ERIE RAILROAD COMPANY, a Delaware corporation (hereinafter called the Railroad).

WHEREAS, the Owner has acquired title to 370 rebuilt 70 ton hopper cars which are more fully described in Schedule A attached hereto (hereinafter called the Equipment); and

WHEREAS, the Railroad desires to purchase the Equipment from Owner in accordance with the terms and conditions of this Conditional Sale Agreement (hereinafter called the Agreement), which shall exclusively and specifically state the rights and obligations of the Owner and the Railroad with respect to the Equipment.

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements hereinafter set forth, the parties hereto do agree as follows:

ARTICLE 1. Construction and Sale. The Owner has acquired and will sell and deliver the Equipment to the Railroad, and the Railroad will purchase from the Owner and accept delivery of and pay for the Equipment as hereinafter provided, each unit of which has been reconstructed in accordance with the specifications referred to in Schedule A hereto, which specifications are by reference made a part of this Agreement as fully as though expressly set forth herein and are hereinafter called the "Specifications." The design, quality and component parts of each unit of the Equipment will conform to all Department of Transportation (Federal Railroad Administration) requirements and specifications, and to all standards recommended by the Association of American Railroads reasonably interpreted as being applicable to railroad equipment of the character of such unit of Equipment as of the date of this Agreement.

ARTICLE 2. Delivery and Acceptance. The Owner will deliver each unit of Equipment to the Railroad free of all liens, encumbrances and claims based on Owner's ownership of the Equipment on tracks of the Railroad at McKees Rocks, Pa. Delivery of Equipment shall be made to the Railroad and completed no later than June 30, 1978.

The Equipment shall be subject to inspection and approval, prior to delivery, by inspectors or other authorized representatives of the Railroad. Upon delivery of the Equipment, an authorized representative of the Railroad shall furnish to the

Owner a certificate of acceptance, hereinafter called the "Certificate of Acceptance," in such number of counterparts or copies as may reasonably be requested, stating that such Equipment has been inspected and found to be completely in accordance with this Agreement and the Specifications and that each unit of the Equipment described in said Certificate has been delivered to and fully and finally accepted on the Railroad's behalf by such representative at the place therein specified, and that each such unit is marked in accordance with Article 6 hereof.

On delivery of each of the units of Equipment hereunder, the Railroad will assume with respect thereto the responsibility and risk of loss.

ARTICLE 3. Purchase Price and Payment. The total purchase price of the Equipment delivered on tracks of the Railroad at McKees Rocks, Pa., is set forth in Schedule A hereof.

The Railroad hereby acknowledges itself to be indebted to the Vendor in the amount of, and hereby promises to pay in cash to the Vendor at such place as the Vendor may designate, the Purchase Price of the Equipment as follows:

(a) On the Closing Date, \$1,546,160, representing the down payment of approximately 20% of the total base price for the Equipment; and

(b) The sum of \$6,184,620, representing approximately 80% of the total base price of the Equipment, payable in twenty (20) consecutive semi-annual installments of \$309,231.20 each on the 15th day of each May and November beginning November 15, 1978, to and including May 15, 1988.

In addition to the payments of the total purchase price as hereinabove provided, interest on the balance of the total purchase price of the Equipment from time to time remaining unpaid, at the rates set forth in Schedule B attached hereto, determined on the basis of a 365/366 day year shall become due and be payable by the Railroad to the Vendor quarterly on each February 15, May 15, August 15 and November 15 subsequent to the date of this Agreement until the principal has been paid in full. Such interest shall accrue from the Closing Date. The term "Closing Date" shall mean a mutually agreed date not more than five (5) business days after the date of delivery of the last unit of Equipment. If any payment becomes due on a legal holiday, then payment shall be made on the next business day thereafter.

All payments provided for in this Agreement shall be paid in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of

public and private debts and shall be made in immediately available funds. The Railroad shall have the right at any time on three (3) days' notice to prepay without penalty or premium the principal amount and interest outstanding hereunder in whole, or in partial payments of \$100,000 each. Partial pre-payments shall be applied to the equal semi-annual installments of the amount outstanding in the inverse order of their maturities.

ARTICLE 4. Taxes. All payments to be made by the Railroad hereunder will be free of expense to the Vendor for collection or other charges and will be free of expense to the Vendor in respect of the amount of any local, state or Federal taxes (other than income, gross receipts, excess profits and similar taxes) or license fees hereafter levied or imposed upon or measured by this Agreement, or any sale, use, payment, shipment, delivery or transfer of title under the terms hereof, all of which expenses, taxes and license fees the Railroad assumes and agrees to pay on demand in addition to the purchase price of the Equipment. The Railroad will also pay promptly all taxes and assessments which may be imposed upon the Equipment delivered to it or for the use or operation thereof by the Railroad or upon the earnings arising therefrom or upon the Vendor solely by reason of their ownership thereof and will keep at all times each unit of the Equipment free and clear of all taxes and assessments which might in any way affect the title of the Vendor or result in a lien upon any unit of the Equipment, except the lien of taxes and assessments not due and payable; provided, however, that the Railroad shall be under no obligation to pay any taxes, assessments, licenses, charges, fines or penalties of any kind so long as it is contesting in good faith and by appropriate legal proceedings such taxes, assessments, license fees, charges, fines or penalties and the non-payment thereof does not, in the opinion of the Vendor, adversely affect the property or rights of the Vendor hereunder. If any such expenses, taxes, assessments, license fees, charges, fines or penalties shall have been charged or levied against the Vendor directly and paid by the Vendor, the Railroad shall reimburse the Vendor on presentation of an invoice therefor and any sums of money so paid by the Vendor shall be secured by and under this Agreement as a lien on the Equipment; provided, however, that the Railroad shall be under no obligation to reimburse the Vendor for any sums of money so paid, nor shall any such sums of money so paid be secured by and under this Agreement as a lien on the Equipment, unless the Vendor upon its receipt of notice of a charge or levy as aforesaid, shall give seven (7) days written notice to the Railroad of its intention to pay such charge or levy, in order to permit the Railroad to commence contesting in good faith any such expenses, taxes, assessments, licenses, charges, fines or penalties which may have been so charged or levied against the Vendor; provided further, however, the Vendor shall have the right but not the obligation to pay such charge or levy when in the opinion

of Vendor the non-payment thereof shall adversely affect the property or rights of the Vendor hereunder.

ARTICLE 5. Title to the Equipment. The Vendor shall and hereby does retain the full legal title to and property in this Equipment delivered to the Railroad hereunder until the Railroad shall have made all of the payments hereunder and shall have kept and performed all its agreements herein contained, notwithstanding the delivery of the Equipment to and the possession and use thereof by the Railroad as herein provided. Any and all additions thereto shall constitute accessions to the Equipment and shall be subject to all the terms and conditions of this Agreement and included in the term "Equipment" as used in this Agreement.

When and only when the Vendor shall have been paid the full purchase price of all the Equipment together with interest and all other payments as herein provided, and all the Railroad's obligations herein contained shall have been performed by the Railroad, absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Railroad without further transfer or action on the part of the Vendor, except that the Vendor, if requested by the Railroad so to do, will execute a bill or bills of sale of the Equipment transferring its title thereto and property therein to the Railroad or upon its order free of all liens and encumbrances created hereby and deliver such bill or bills of sale to the Railroad at its address specified in Article 23 hereof, and will execute and deliver at the same place, for recording or for filing in all necessary public offices, such instrument or instruments in writing as may be necessary or appropriate in order then to make clear upon the public records the title of the Railroad to the Equipment. The Railroad hereby waives and releases any and all rights, existing or that may be acquired, in or to the payment of any penalty, forfeit or damages for failure to execute and deliver all such bill or bills of sale or to file any certificate of payment in compliance with any law or statute requiring filing of the same, except for failure to execute and deliver such bill or bills of sale or such instrument or instruments within a reasonable time after written demand of the Railroad.

ARTICLE 6. Marking of Equipment. So long as title to and property in the Equipment is retained by Vendor, the Railroad will cause each unit of the Equipment to be kept plainly, distinctly, permanently and conspicuously marked on each side thereof in letters not less than one inch in height, the following legend:

"Ownership Subject to a Security Agreement Filed
under the Interstate Commerce Act, Section 20c"

The Railroad shall make such appropriate changes and such additions thereto as from time to time may be required by law in order to protect the title of the Vendor to the Equipment and its rights under this Agreement.

The Railroad will cause each unit of the Equipment to be kept numbered with the identifying number thereof as set out in Schedule A hereto and will not change or permit the change of numbers of any such units except with the consent of the Vendor and in accordance with a statement of new numbers to be substituted therefor, which consent and statement previously shall have been filed with the Vendor by the Railroad and filed, recorded or deposited in all public offices where this Agreement shall have been filed, recorded or deposited.

Except as provided above, the Railroad will not allow the name of any person, association or corporation to be placed on any of the Equipment as a designation which might be interpreted as a claim of ownership by the Railroad or anyone other than the Vendor; provided, however, that the Railroad may cause the Equipment to bear the designation "P&LE", "Pittsburgh & Lake Erie Railroad" or "The Pittsburgh and Lake Erie Railroad Company", together with such insignia as the Railroad customarily displays on the side of other railroad equipment owned or leased by the Railroad.

ARTICLE 7. Maintenance and Repair. The Railroad will at all times maintain the Equipment or cause it to be maintained in good order and repair without expense to the Vendor.

ARTICLE 8. Lost or Destroyed Equipment. In the event that any unit of the Equipment shall be worn out, lost, destroyed, irreparably damaged requisitioned or otherwise taken or rendered unfit for use from any cause whatsoever, including such units which have been on Bad Order (as such term is understood by the railroad industry in the United States) for a continued period in excess of six months, during the continuance of this Agreement (such occurrences being hereinafter called "Casualty Occurrence"), the Railroad shall promptly and fully inform the Vendor in regard thereto. Within sixty (60) days of the date of such information, the Railroad shall pay to the Vendor a sum equal to the then unpaid balance applicable to such unit or units of Equipment having suffered a Casualty Occurrence, including accrued and unpaid interest on such balance on the date of payment thereof in which event the payment of principal shall apply to the equal semi-annual installments of the amount outstanding in the inverse order of their maturities.

ARTICLE 9. Advances, Loans, Investments, Dividends. While the Purchase Price and any interest thereon is outstanding hereunder, the Railroad shall not make any loan or advance to or purchase of or investment in or otherwise acquire any obligations of or stock of or any other interest in, or guaranty the indebtedness of the Penn Central Transportation Company or its Trustees or any Company affiliated therewith, except: (i) loans or advances to or guaranties of the indebtedness of any subsidiaries of the Railroad, whether or not wholly owned, not to exceed in the aggregate \$10,000,000.00, and (ii) obligations incurred in connection with the acquisition of interests in track and other railroad operating

properties, not to exceed in the aggregate \$20,000,000.00, (loans, advances, guaranties, and obligations under (i) and (ii) hereof collectively hereinafter called "Permitted Advances"); provided, however, that Railroad shall notify Vendor of the Permitted Advances in writing or in the next quarterly financial statement required by Article 11 hereof. While the Purchase Price and any interest thereon is outstanding the Railroad shall not declare or make or incur any liability to make any distribution or dividend in respect of its capital stock (other than distributions or dividends in such stock) unless the Railroad's net worth (as determined on a consolidated basis in accordance with generally accepted accounting principles consistently applied throughout the periods involved) shall be greater than \$145,000,000, after giving effect to the payment of any such dividend or distribution.

ARTICLE 10. Compliance with Laws and Rules. During the term of this Agreement the Railroad will comply in all respects with all laws of the jurisdictions in which its operations involving the Equipment may extend and with all lawful rules of the Interstate Commerce Commission, Department of Transportation (Federal Railroad Administration) interchange rules of the American Association of Railroads and any other legislative, executive, administrative, judicial or trade body exercising any power or jurisdiction over the Equipment, to the extent that such laws and rules affect the title, operation or use of the Equipment, and in the event that such laws or rules require the alteration of the Equipment, the Railroad will conform therewith, at its expense, and will maintain the same in proper condition for operation under such laws and rules; provided, however, that the Railroad may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Vendor, adversely affect the property or rights of the Vendor hereunder.

ARTICLE 11. Reports and Inspections. On or before March 31 in each year, the Railroad will furnish to the Vendor an accurate statement showing as at the preceding December 31, the description and Railroad numbers of the Equipment then covered hereby, the description and numbers of all units of the Equipment that may have been worn out, lost, destroyed or irreparably damaged, whether by accident or otherwise, during the preceding calendar year, the numbers of the units then undergoing repairs and awaiting repairs, and such additional information regarding the condition and state of repair of the Equipment as the Vendor may reasonably request. Together with such statement the Railroad will also furnish to the Vendor a statement specifying that, in the case of all Equipment repainted during the preceding calendar year, the marks required by Article 6 hereof have been preserved or replaced. The Vendor, or its agent, shall have the right, to inspect the Equipment and the Railroad's records with respect thereto from time to time as may be reasonably requested by Vendor.

The Railroad will furnish to the Vendor, within 90 days after each fiscal year of the Railroad a copy of the annual audited report prepared by an independent certified public accountant, chosen by the Railroad subject to Vendor's approval which approval will not be unreasonably withheld and within 30 days after each of its fiscal quarters, unaudited financial statements showing its financial condition at the close of such fiscal quarter and the results of its operations for the period ended certified by a proper accounting officer of the Railroad. Each such annual report and quarterly statement shall contain an additional certification by a proper accounting officer of the Railroad that the Railroad is not in default under the terms of this Agreement.

The Railroad will furnish to Vendor seven (7) days' written notice prior to instituting any action to contest (i) taxes, assessments, license fees, charges, fines or penalties as provided in Article 4 hereof, (ii) the validity or application of laws or rules as provided in Article 10 hereof, or (iii) claims upon the Equipment as provided in Article 13 hereof.

The Railroad will furnish to the Vendor (i) as soon as possible, and in any event no later than the notification of the Pension Benefit Guaranty Corporation ("PBGC") of any reportable event with respect to any employee pension plan, a statement of the President, any Vice President or the Treasurer of the Railroad setting forth details as to such reportable event and the action which it is proposed to be taken with respect thereto, together with a copy of the notice of such reportable event given to the PBGC, (ii) upon the request of the Vendor, after the filing thereof with the United States Secretary of Labor or the PBGC, copies of each annual and other report with respect to each plan and (iii) promptly after receipt thereof, a copy of any notice the Railroad may receive from the PBGC relating to the intention of the PBGC to terminate any employee pension plan or to appoint a trustee to administer any such plan.

ARTICLE 12. Possession and Use. The Railroad, so long as it shall not be in default under this Agreement, shall be entitled to the possession and control of the Equipment and the use thereof upon the lines of railroad owned or operated by the Railroad or over which the Railroad has trackage or other operating rights, and upon the lines of railroad of connecting and other carriers in the usual interchange of traffic, but only upon and subject to all the terms and conditions of this Agreement. The Railroad, with the prior consent of the Vendor, may lease the Equipment; provided, however, that the right of the lessee under such lease shall be expressly subordinated to the rights and remedies of the Vendor under this Agreement.

ARTICLE 13. Prohibition Against Liens. The Railroad will pay or satisfy or discharge any and all sums claimed by any party by, through or under the Railroad or its successors or assigns which, if unpaid, might become a lien or a charge upon the Equipment, or any unit thereof, equal or superior to the title of the Vendor thereto, but shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings in any reasonable manner and the nonpayment thereof does not, in the opinion of the Vendor, adversely affect the property or rights of the Vendor hereunder.

This covenant will not be deemed breached by reason of liens for taxes, assessments or governmental charges or levies in each case not due and delinquent, or undetermined or inchoate materialman's, mechanics', workman's or other like liens arising in the ordinary course of business and in each case not delinquent.

ARTICLE 14. Indemnities and Assumption of Liability. The Railroad agrees to indemnify and save harmless Vendor from and against all loss, damages, injuries, liabilities, claims and demands whatsoever regardless of the cause thereof, and expenses in connection therewith, including counsel fees, arising out of retention by the Vendor of title to the Equipment, or out of the use and operation thereof by the Railroad during the period when title thereto remains in the Vendor. This covenant of indemnity shall continue in full force and effect notwithstanding the full payment of the indebtedness in respect to the purchase price and transfer of title to the Equipment as provided in Article 5 hereof or the termination of this Agreement in any manner whatsoever.

The Railroad will bear the risk of and shall not be released from its obligations hereunder in the event of any damage to or the destruction or loss of any or all units of the Equipment.

ARTICLE 15. Patent Indemnities. The Railroad agrees to indemnify, protect and hold harmless the Owner and Vendor from and against any and all liability, claims, demands, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Vendor because of the use in or about the construction or operation of the Equipment, or any unit thereof, of any design which infringes or is claimed to infringe on any patent or other right. Said covenant of indemnity shall continue in full force and effect notwithstanding the full payment of all sums due hereunder, the satisfaction and discharge of this Agreement or the termination of this Agreement in any manner.

ARTICLE 16. Assignments. Within 30 days of the filing of an application with the Interstate Commerce Commission seeking approval of the merger of the Railroad into, or consolidation of the Railroad with any other corporation, or the merger of any other corporation into the Railroad, the Railroad will give notice to the Vendor of the filing thereof. Within 45 days of the delivery of such notice to the Vendor, the Vendor shall notify the Railroad that the proposed merger or consolidation shall, in its sole discretion, constitute a risk to the credit extended to the Railroad hereunder. If the Vendor gives notice of such risk, and such merger or consolidation shall thereafter be consummated, then upon the consummation thereof, the entire amount of the unpaid purchase price of the Equipment, together with interest thereon then accrued and unpaid, shall be due and payable forthwith. The failure to pay such amount immediately shall constitute an event of default under the terms and conditions of Article 17 hereof. If the Vendor shall fail to give any such notification within the 45-day period specified above, the obligations of the Railroad shall continue as otherwise provided in this Agreement.

Except in the case of the merger or consolidation of the Railroad into or with such other corporation upon the conditions above set forth, or except as provided in Article 12 hereof, the Railroad will not sell, assign, transfer or otherwise dispose of its rights under this Agreement, nor transfer possession of any unit of the Equipment to any other firm, person or corporation without first obtaining the written consent of the Vendor to such sale, assignment or transfer.

All or any of the rights, benefits and advantages of the Vendor under this Agreement, including the right to receive payments herein provided to be made by the Railroad may be assigned by the Vendor and reassigned by any assignee at any time or from time to time. No such assignment shall subject any assignee to, or relieve the Owner from, any of the obligations of the Owner to deliver the Equipment in accordance herewith or to respond to his agreements contained in this Agreement, or relieve the Railroad of its obligations to the Owner under Articles 3, 4, 14 and 15 hereof and this Article 15 or any other obligation which, according to its terms and context, is intended to survive an assignment.

Upon any such assignment, either the assignor or the assignee shall give written notice to the Railroad, together with a counterpart or copy of such assignment, stating the identity and post office address of the assignee, and such assignee shall by virtue of such assignment acquire all or a portion, as the case may be, of the assignor's rights, benefits and advantages under this Agreement including all of the Vendor's right, title and interest in and to the Equipment, or in and to a portion thereof, as the

case may be, subject only to such reservations as may be contained in such assignment. From and after the receipt by the Railroad of the notification of any such assignment, all payments thereafter to be made by the Railroad hereunder shall, to the extent so assigned, be made to or for the account of the assignee in such manner as it may direct.

The Railroad recognizes that it is the custom of railroad equipment vendors to assign agreements of this character and understands that the assignment of this Agreement, or of some or all of the rights of the Vendor hereunder, is contemplated. The Railroad expressly represents and agrees, for the purpose of assurance to any person, firm or corporation considering the acquisition of this Agreement, or of all or any of the rights of the Vendor hereunder, and for the purpose of inducing such acquisition, that in the event of such assignment by the Vendor as hereinbefore provided, the rights of such assignee to the entire unpaid indebtedness in respect of the purchase price or such part thereof as may be assigned, together with interest thereon, as well as any other rights hereunder which may be so assigned, shall not be subject to any defense, set-off, counterclaim or recoupment whatsoever arising out of any breach of any obligation of the Owner with respect to the Equipment or the construction, delivery or warranty thereof, or with respect to any indemnity herein contained, nor subject to any defense, set-off, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Railroad by the Owner or arising out of any other matter whatsoever.

In the event of any such assignment or successive assignments by the Vendor of title to the Equipment and of the Vendor's rights hereunder with respect thereto, the Railroad will, at its expense whenever requested by each assignee, change or cause the change of the markings to be maintained on each side of each unit of the Equipment so as to indicate the title of such assignee to the Equipment and the rights of such assignee thereunto, such markings to bear such words or legend as shall reasonably be specified by such assignee. The cost of such markings with respect to the first assignee of this Agreement (or to a successor agent in case the first assignee is an agent) shall be borne by the Railroad. The cost of such markings in connection with any subsequent assignment (other than to a successor agent if the first assignee is an agent) will be borne by the subsequent assignee.

If this Agreement shall have been assigned by the Owner and the assignee shall not make the payment to the Owner with respect to units of Equipment as provided in the instrument making

such assignment, the Owner will promptly notify the Railroad of such event and if such payment shall not have been previously paid by such assignee, the Railroad will, not later than 90 days after the date such payment was due, pay or cause to be paid to the Owner that portion of the purchase price of such units, together with interest from the date such payment was due to the date of payment by the Railroad at the rate of interest set forth on Schedule B hereto; provided, however, that nothing in this paragraph contained shall be construed as constituting a consent by the Railroad to such failure or refusal by such assignee to make such payment.

ARTICLE 17. Defaults. In the event that one or more of the following events of default shall occur and be continuing, to-wit:

(a) The Railroad shall fail to pay in full after the same shall become due and payable hereunder, any sum payable by the Railroad as herein provided in respect of the purchase price of the Equipment or interest thereon; or

(b) The Railroad shall, for more than 10 days after the Vendor shall have demanded in writing performance thereof, fail or refuse to comply with any covenant, agreement terms or provision of this Agreement on its part to be kept or performed (other than the failure to make payments as provided in subparagraph (a) hereinabove) or to make provision satisfactory to the Vendor for such compliance; or

(c) A petition for reorganization under Section 77 of the Bankruptcy Act, as now constituted or as said Section 77 may be hereafter amended or replaced, shall be filed by or against the Railroad and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force of such ineffectiveness shall continue), all the obligations of the Railroad under this Agreement shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed in such proceedings in such manner that the obligations shall have the same status as the obligations incurred by such trustee or

trustees, within 30 days after such appointment, if any, or 60 days after such petition shall have been filed, whichever shall be earlier; or

(d) Any proceedings shall be commenced by or against the Railroad for any relief which includes, or might result in, any modification of the obligations of the Railroad hereunder under any bankruptcy or insolvency law, or law relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions, or extensions, and unless such proceeding shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Railroad under this Agreement shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed for the Railroad or for its property in connection with any such proceeding in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 60 days, after such proceedings shall have been commenced, whichever shall be earlier; or

(e) The Railroad shall make or suffer any unauthorized assignment or transfer of this Agreement or any interest therein or any unauthorized transfer of the right to possession of any unit of the Equipment; or

(f) The Railroad shall fail to pay any indebtedness for borrowed money or the deferred purchase price of property or any interest or premium thereon, when due, whether such indebtedness shall become due by scheduled maturity, by required pre-payment, by acceleration, by demand or otherwise, or shall fail to perform any term, covenant or agreement on its part to be performed under any agreement or instrument evidencing or

securing or relating to any such indebtedness when required to be performed, if the effect of such failure is to accelerate, or to permit the holder or holders of such indebtedness or the trustee or trustees under any such agreement or instrument to accelerate, the maturity of such indebtedness whether or not such failure to perform shall be waived by the holder or holders of such indebtedness or such trustee or trustees; or

(g) (i) A reportable event shall have occurred with respect to any employee pension plan of the Railroad and within 30 days thereafter such reportable event or the events giving rise thereto or the consequences of any thereof are then continuing (ii) a trust shall be appointed by a United States District Court to administer such plan or (iii) the PBGC shall institute proceedings to terminate such plan;

then at any time after the occurrence of such an event of default the Vendor may, upon written notice to the Railroad and upon compliance with any mandatory legal requirements then in force and applicable to such action by the Vendor declare the entire amount of the unpaid purchase price of the Equipment, together with the interest thereon then accrued and unpaid, immediately due and payable, without further demand, and thereafter the aggregate of the unpaid balance of the purchase price and such interest shall bear interest from the date of such declaration at the rate set forth in the second paragraph of Schedule B hereto, to the extent legally enforceable, and the Vendor shall thereupon be entitled to recover judgment for the entire unpaid balance of the purchase price of the Equipment so payable, with interest as aforesaid, and to collect such judgment out of any property of the Railroad wherever situated.

The Vendor may at its election waive any such event of default and its consequences and rescind and annul any such declaration by notice to the Railroad in writing to that effect. Upon any such waiver the respective rights of the parties shall be as they would have been if no such default had occurred and no such declaration had been made. Notwithstanding the provisions of this paragraph, it is expressly understood and agreed by the Railroad that time is of the essence of this Agreement and that no such waiver, rescission or annulment shall extend to or affect any other or subsequent default or impair any rights or remedies consequent thereon.

ARTICLE 18. Remedies. If the Railroad shall have defaulted as hereinbefore provided, then at any time after the entire unpaid portion of the purchase price shall have been de-

clared immediately due and payable as hereinbefore provided and during the continuance of such default, the Vendor, to the extent not prohibited by any mandatory requirements of law, may, upon such further notice, if any, as may be required for compliance with any mandatory requirements of law applicable to the action to be taken by the Vendor, take or cause to be taken by its agent or agents immediate possession of the Equipment, or any unit thereof, without liability to return to the Railroad any sums theretofore paid and free from all claims whatever, except as hereinafter in this Article 18 expressly provided, and may remove the same from possession and use of the Railroad and for such purpose may enter upon the Railroad's premises where the Equipment may be located and may use and employ in connection with such removal any supplies, services and aids and any available trackage and other facilities or means of the Railroad, with or without process of law.

In case the Vendor shall rightfully demand possession of the Equipment in pursuance of this Agreement and shall reasonably designate a point or points upon the lines of the Railroad for the delivery of the Equipment to the Vendor the Railroad shall at its own expense forthwith and in the usual manner cause the Equipment to be moved to such point or points on its lines as shall be designated by Vendor and shall deliver the Equipment or cause it to be delivered to the Vendor, and, at the option of the Vendor, the Vendor may keep the Equipment on any of the lines of the Railroad or premises of the Railroad until the Vendor shall have leased, sold or otherwise disposed of the same, and for such purpose the Railroad agrees to furnish, without charge for rent or storage, the necessary facilities at any point or points selected by the Vendor reasonably convenient to the Railroad. This agreement to deliver the Equipment and to furnish facilities for its storage as hereinbefore provided is of the essence of the agreement between the parties, and, upon application to any court of equity having jurisdiction in the premises, the Vendor shall be entitled to a decree against the Railroad requiring specific performance hereof. The Railroad hereby expressly waives any and all claims against the Vendor and his agent or agents for damages of whatever nature in connection with any retaking of any units of the Equipment in any reasonable manner.

If the Railroad shall make default as hereinbefore provided, then at any time thereafter during the continuance of such default and after the entire unpaid portion of the purchase price shall have been declared immediately due and payable as hereinbefore provided, the Vendor (after retaking possession of the Equipment as hereinbefore in this Article 18 provided) may at its election, to the extent not prohibited by any mandatory requirements of law then in force and applicable thereto retain the Equipment as its own and make such disposition thereof as the Vendor shall deem fit (including, if the Vendor so elects, the leasing of the Equipment on such terms as it shall deem fit), and in such event all the Railroad's rights in the Equipment will thereupon terminate and, to the extent not prohibited by any mandatory requirements of law, all payments made by the Railroad

may be retained by the Vendor as compensation for the use of the Equipment by the Railroad; provided, however, that if the Railroad, within 30 days of receipt of notice of the Vendor's election to retain the Equipment for its own use, as hereinafter provided shall pay or cause to be paid to the Vendor the total unpaid balance of the purchase price of all the Equipment which the Railroad has agreed to purchase hereunder, together with interest thereon accrued and unpaid and all other payments due by the Railroad under this Agreement, then in such event absolute right to the possession of, title to and property in such Equipment shall pass to and vest in the Railroad; or the Vendor, with or without retaking possession thereof, may at its election sell the Equipment, or any unit thereof, free from any and all claims of the Railroad or of any other party claiming by, through or under the Railroad, at law or in equity, at public or private sale and with or without advertisement as the Vendor may determine, all subject to and in compliance with any mandatory requirements of law then in force and applicable to such sale; and the proceeds of such sale, less the attorneys' fees and any other expenses incurred by the Vendor in taking possession of, removing, storing and selling the Equipment, shall be credited first to interest, and then to principal due to the Vendor under the provisions of this Agreement. Written notice of the Vendor's election to retain the Equipment for its own use may be given to the Railroad by telegram or registered mail addressed to the Railroad as provided in Article 23 hereof, at any time during a period of 30 days after the entire unpaid portion of the purchase price shall have been declared immediately due and payable as hereinbefore provided; and if no such notice shall have been given, the Vendor shall be deemed to have elected to sell the Equipment in accordance with the provisions of this Article 18.

To the extent permitted by any mandatory requirements of law then in force and applicable thereto, any sale hereunder may be held or conducted at such place or places and at such time or times as the Vendors may specify, in one lot and as an entirety or in separate lots, and without the necessity of gathering at the place of sale the Equipment to be sold, and in general in such manner as the Vendor may determine in compliance with any such requirements of law, provided that the Railroad shall be given written notice of such sale as provided in any such requirements, but in any event not less than 10 days prior thereto, by telegram or registered mail addressed to the Railroad as provided in Article 23 hereof. To the extent not prohibited by any such requirements of law, the Vendor may bid for and become the purchaser of the Equipment, or any unit thereof, so offered for sale without accountability to the Railroad (except to the extent of surplus money received as hereinafter provided in this Article 18), and in payment of the purchase price therefor the Vendor shall be entitled to the extent not prohibited as aforesaid to have credited on account thereof all sums due to the Vendor from the Railroad hereunder.

Each and every power and remedy hereby specifically given to the Vendor shall be in addition to every other power and remedy hereby specifically given or now or hereafter existing at law or in equity, and each and every power and remedy may be exercised from time to time and simultaneously and as often and in such order as may be deemed expedient by the Vendor. All such powers and remedies shall be cumulative, and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay or omission of the Vendor in the exercise of any such power or remedy and no renewal or extension of any payments due hereunder shall impair any such power or remedy or shall be construed to be a waiver of any default or an acquiescence therein.

If, after applying all sums of money realized by the Vendor under the remedies herein provided, there shall remain any amount by the Vendor due to it under the provisions of this Agreement, the Railroad shall pay the amount of such deficiency to the Vendor upon demand, and, if the Railroad shall fail to upon demand, and, if the Railroad shall fail to pay such deficiency, the Vendor may bring suit therefor and shall be entitled to recover judgment therefor against the Railroad. If, after applying as aforesaid all sums realized by the Vendor, there shall remain a surplus in the possession of the Vendor, such surplus shall be paid to the Railroad.

The Railroad will pay all reasonable expenses, including attorneys' fees, incurred by the Vendor in enforcing his remedies under the terms of this Agreement. In the event that the Vendor shall bring any suit to enforce any of its rights hereunder and shall be entitled to judgment, then in such suit the Vendor may recover reasonable expenses, including attorneys' fees, and the amount thereof shall be included in such judgment.

In the event of the assignment of interests hereunder to more than one assignee, each such assignee shall be entitled to exercise all rights of the Vendor hereunder in respect of the Equipment assigned to such assignee, irrespective of any action or failure to act on the part of any other assignee.

The Railroad, to the fullest extent permitted by law, hereby waives all statutory or other legal requirements for any notice of any kind, including notice of intention to take possession of the units of Equipment and to sell them and any other requirements as to the time, place and terms of sale thereof, and any other requirements with respect to the enforcement of the Vendor's rights hereunder, except such notices as are expressly required by the terms of this Agreement, and any and all rights of redemption.

ARTICLE 19. Applicable State Laws. Any provision of this Agreement prohibited by any applicable law of any State or which by any applicable law of any State would convert this Agreement into any instrument other than an agreement of conditional sale, shall as to such State be ineffective, without modifying the remaining provisions of this Agreement. Where, however, the conflicting provisions of any applicable State law may be waived, they are hereby waived by the Railroad to the full extent permitted by law, to the end that this Agreement shall be deemed to be a conditional sale and enforced as such.

ARTICLE 20. Extension Not a Waiver. No delay or omission in the exercise of any power or remedy herein provided or otherwise available to the Vendor shall impair or affect the Vendor's right thereafter to exercise the same. Any extension of time for payment hereunder or other indulgence duly granted to the Railroad shall not otherwise alter or affect the Vendor's rights or the obligations of the Railroad hereunder. The acceptance by the Vendor of any payment after it shall have become due hereunder shall not be deemed to alter or impair the obligations of the Railroad or the Vendor's rights hereunder with respect to any subsequent payments or default herein.

ARTICLE 21. Recording. The Railroad will cause this Agreement and any assignments hereof or of any interests herein, and any amendments or supplements hereto or thereto to be filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act and to be deposited with the Registrar General of Canada in accordance with Section 148 of the Railway Act of Canada; and the Railroad will from time to time do and perform any other act and will execute, acknowledge, deliver, file and record and deposit any and all further instruments required by law or reasonably requested by the Vendor for the purpose of carrying out the intention of this Agreement; and the Railroad will promptly furnish to Vendor certificates or other evidence of such filing and recording and depositing satisfactory to the Vendor.

ARTICLE 22. Payment of Expenses. The Railroad will pay all reasonable costs and expenses, including the counsel fees of the Owner and of counsel for the first assignee of this Agreement and of counsel for any other parties acquiring interests in the first assignment by the Vendor of this Agreement, and including stamp and other taxes, if any, incident to the printing or other duplicating, execution, acknowledgment, delivery, filing or recording of this Agreement, of such first assignment, of any instrument supplemental to or amendatory of this Agreement or such first assignment, and of any certificate of the payment in full of the indebtedness in respect of purchase price of the Equipment due hereunder. In addition, the Railroad will pay all reasonable costs

and expenses, including fees and expenses of counsel and including stamp and other taxes, if any, of the first assignee of this Agreement (including the fees and expenses of an agent, if the first assignee is an agent) and of any party or parties acquiring interests in such first assignment, incurred in connection with such first assignment and payments made thereunder by each first assignee, and in connection with the transfer by any party or parties of interests acquired in such first assignment. For the purposes of this Article 22, if the first assignee is an agent, then any successor agent to such agent shall be considered the first assignee.

ARTICLE 23. Notice. Any notice hereunder to the Railroad shall be deemed to be properly served if delivered or mailed to the Treasurer of the Railroad at P&LE Terminal Building, Pittsburgh, Pennsylvania, 15219, or at such other address as may have been furnished in writing to the Vendor by the Railroad. Any notice hereunder to the Owner shall be deemed to be properly served if delivered or mailed to its offices at 3420 Mellon Bank Building, Pittsburgh, Pennsylvania 15219 or at such other address as may have been furnished in writing to the Railroad by the Owner. Any notice hereunder to any assignee of the Vendor or of the Railroad shall be deemed to be properly served if delivered or mailed to such assignee at such address as may have been furnished in writing to the Railroad or the Vendor, as the case may be, by such assignee.

ARTICLE 24. Article Headings. All article headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

ARTICLE 25. Effect and Modification of Agreement. Except as herein otherwise provided, this Agreement exclusively and completely states the rights of the Vendor and the Railroad with respect to the Equipment and supersedes all other agreements, oral or written, with respect to and only to the extent of the Equipment. No variation or modification of this Agreement and no waiver of any of its provisions or conditions shall be valid unless in writing and signed on behalf of the Vendor and the Railroad.

ARTICLE 26. Law Governing. This Agreement shall be governed by the laws of the Commonwealth of Pennsylvania; provided, however, that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act.

ARTICLE 27. Definitions. The term "Vendor", whenever used in this Agreement, means, before any assignment of any of its rights hereunder, Project Finance Corporation and any successor for the time being to its rights, powers, duties and obligations.

ARTICLE 28. Execution. This Agreement may be simultaneously executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same contract, which shall be sufficiently evidenced by any such original counterpart. Although this Agreement is dated as of May 15, 1978, for convenience, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgements hereto annexed.

IN WITNESS WHEREOF, the Owner has executed this Agreement and the Railroad, pursuant to the corporate authority, has caused this instrument to be executed in its corporate name by its duly authorized officers and its corporate seal to be hereunto affixed and duly attested, all as of the date first above written.

(CORPORATE SEAL)

ATTEST:

Aubrey W. Bledsoe
Secretary

PROJECT FINANCE CORPORATION

By Thomas H. Evans
President

(CORPORATE SEAL)

ATTEST:

W. J. Brown
Assistant Secretary

THE PITTSBURGH AND LAKE ERIE RAILROAD
COMPANY

By J. J. Dan
Vice President

SCHEDULE A

Equipment included in Conditional Sale Agreement dated as of May 15, 1978, between Project Finance Corporation and The Pittsburgh and Lake Erie Railroad Company.

<u>No. of Units.</u>	<u>Desc.</u>	<u>Spec.</u>	<u>Railroad Numbers both inc.</u>	<u>Purchase Price</u>	
				<u>Price Per Unit</u>	<u>Total Price</u>
370	70-ton rebuilt open top hopper cars	P&LE Speci- fications dated Jan 1, 1975	64,500 - 64,869	\$20,894	\$7,730,780

SCHEDULE B

RATE OF INTEREST CHARGED BY VENDOR

Years 1-3
(12 quarter-
annual in-
stallments) One hundred nine percent (109%) of the
Prime Rate, which for the purpose of this
Agreement shall mean the rate of interest on
90-day unsecured loans to commercial borrowers
of substantial size and highest credit standing
in effect at Pittsburgh National Bank from time
to time, such interest rate to change automa-
tically from time to time effective as of the
effective date of each change of such prime rate.

Years 4-6
(12 quarter-
annual in-
stallments) One hundred nine percent (109%) of the Prime
Rate defined hereinabove, plus one-fourth of one
percent (1/4 of 1%).

Years 7-10
(16 quarter-
annual in-
stallments) One Hundred nine percent (109%) of the Prime Rate
defined hereinabove, plus one-half of one percent
(1/2 of 1%).

Provided, however, that regardless of the interest rate
arrived at by application of the above formula the actual interest
rate charged shall never be less than seven and one-half percent
(7-1/2%) per annum nor more than ten percent (10%) per annum.

Notwithstanding the foregoing the Railroad will pay
interest upon all amounts remaining unpaid after the same shall have
become due and payable pursuant to the terms of this Agreement at
the rate of two percent (2%) above the Prime Rate.

COMMONWEALTH OF PENNSYLVANIA)
) SS:
COUNTY OF ALLEGHENY)

On this 30th day of June, 1978, before me personally appeared Thomas A. Evans to me personally known, who being duly sworn, says that he is President of PROJECT FINANCE CORPORATION, that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by the authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Rita K. Burns
Notary Public

My Commission Expires:

RITA K. BURNS, Notary Public
Pittsburgh, Allegheny County, Pa.
My Commission Expires April 16, 1979

COMMONWEALTH OF PENNSYLVANIA)
) SS:
COUNTY OF ALLEGHENY)

On this 30th day of June, 1978, before me personally appeared J. J. Han to me personally known, who being by me duly sworn, says that he is a Vice President of THE PITTSBURGH AND LAKE ERIE RAILROAD COMPANY, that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by the authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Rita K. Burns
Notary Public

My Commission Expires:

RITA K. BURNS, Notary Public
Pittsburgh, Allegheny County, Pa.
My Commission Expires April 16, 1979

AGREEMENT AND ASSIGNMENT, dated as of May 15, 1978 between PROJECT FINANCE CORPORATION, a Pennsylvania corporation (hereinafter called the Owner) and PITTSBURGH NATIONAL BANK, a national banking association with a mailing address at Fifth Avenue and Wood Street, Pittsburgh, Pennsylvania 15222 (hereinafter called the Assignee).

WHEREAS, the Owner and The Pittsburgh and Lake Erie Railroad Company, a Delaware corporation (hereinafter called the Railroad), have entered into a Conditional Sale Agreement dated as of May 15, 1978 (hereinafter called the Conditional Sale Agreement) covering the sale, on the conditions therein set forth, by the Owner and the purchase by the Railroad of the railroad equipment described in Schedule A to the Conditional Sale Agreement (such equipment hereinafter called the Equipment).

NOW, THEREFORE, this Agreement and Assignment Witnesseth that, in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration paid by the Assignee to the Owner, the receipt of which is hereby acknowledged, as well as the mutual covenants herein contained:

SECTION 1. The Owner hereby sells, assigns, transfers and sets over to the Assignee, its successors and assigns:

(a) All the right, title and interest of the Owner in and to the Equipment and each unit thereof when and as severally delivered to and accepted by the Railroad and as to each such unit upon payment to the Owner of the amount required to be paid under Section 5 hereof with respect thereto;

(b) All the right, title and interest of the Owner in and to the Conditional Sale Agreement in respect of the Equipment (except the right to deliver the Equipment and the right to receive the payment specified in the last paragraph of Article 16 thereof, and reimbursement for taxes paid or incurred by the Owner as provided in Article 4 thereof) and in and to any and all amounts which may become due or owing by the Railroad to the Owner under the Conditional Sale Agreement on account of the Railroad's obligations in respect of the purchase price of the

Equipment and interest thereon and in and to any other sums becoming due from the Railroad under the Conditional Sale Agreement other than those hereinabove excluded; and

(c) All of the Owner's rights, powers, privileges and remedies under the Conditional Sale Agreement (except as limited by subparagraph (b) of this paragraph);

without any recourse, however, against the Owner for or on account of the failure of the Railroad to make any of the payments provided for in, or otherwise to comply with, any of the provisions of the Conditional Sale Agreement, PROVIDED, HOWEVER, that this Agreement and Assignment shall not subject the Assignee to, or transfer, or pass, or in any way affect or modify, the obligations of the Owner to deliver the Equipment in accordance with the Conditional Sale Agreement, or relieve the Railroad from its obligations to the Owner under Articles 3, 14 and 15 of the Conditional Sale Agreement. In furtherance of the foregoing assignment and transfer, the Owner hereby authorizes and empowers the Assignee, in the Assignee's own name or in the name of the Assignee's nominee, or in the name of and as attorney, hereby irrevocably constituted, for the Owner, to ask, demand, sue for, collect, receive and enforce any and all sums to which the Assignee is or may become entitled under this Agreement and Assignment and compliance by the Railroad with the terms and agreements on its part to be performed under the Conditional Sale Agreement, but at the expense and liability and for the sole benefit of the Assignee.

SECTION 2. The Owner covenants and agrees that it will warrant to the Assignee and the Railroad that at the time of delivery of any unit of the Equipment it had such title to such unit as had been conveyed to it and, subject to any pre-existing claims, liens, or encumbrances incurred and not discharged by the prior owner of such unit, the lawful right to sell such unit and the title to such unit was free of all claims, liens and encumbrances of any nature incurred by the Owner except only the rights of the Railroad under the Conditional Sale Agreement; and the Owner further covenants and agrees that it will defend the title to such unit against the demands of all persons whomsoever based on claims incurred by the Owner; all subject, however, to the provisions of the Conditional Sale Agreement and the rights of the Railroad thereunder.

SECTION 3. The Assignee, on the Closing Date fixed as provided in Article 3 of the Conditional Sale Agreement shall pay to the Owner an amount equal to the balance of the Purchase Price under Article 3 subparagraph (b) of the Conditional Sale Agreement for such Equipment, provided that there shall have been delivered

to the Assignee, as provided in Article 16 of the Conditional Sale Agreement, at least two business days prior to such Closing Date, the following documents in form and substance satisfactory to it and to its counsel hereinafter mentioned:

(a) A Bill of Sale from the Owner to the Assignee, transferring to the Assignee title to the units of the Equipment;

(b) An assignment without recourse by Owner to Assignee of all agreements, bills of sale and other documents transferring from the prior owner to the Owner title to the units of Equipment which documents must warrant to the Owner and any assignee of Owner that the prior owner at the time of the delivery of the Units to the Owner had legal title to such units and good and lawful rights to sell such units and that title to such units was free of all claims, liens, security interests and encumbrances of any nature and covenanting to defend the title of such units against the demands of all persons whomsoever based on claim originating prior to delivery of such units to the Owner;

(c) The Certificates of Acceptance with respect to the units of Equipment contemplated by Article 2 of the Conditional Sale Agreement;

(d) Duplicate invoice or invoices for the units of the Equipment accompanied by or having endorsed thereon a certification by the Railroad as to the correctness of the prices of such units;

(e) A favorable opinion of counsel for the Railroad, dated as of the Closing Date, stating that (i) the Conditional Sale Agreement and the Railroad's Acknowledgement of Notice annexed at the foot of this Agreement and Assignment have been duly authorized, executed and delivered and are valid and binding instruments enforceable in accordance with their terms (subject, as to the enforcement of remedies, to applicable bankruptcy, reorganization or moratorium laws now or hereafter in effect), (ii) this Agreement and Assignment has been duly authorized, executed and delivered and is a valid and binding instrument enforceable in accordance with its terms (subject, as to the enforcement of remedies, to applicable bankruptcy, reorganization or moratorium laws now or hereafter in effect), (iii) the Assignee is vested with all the right, title and interest of the

Owner in and to the Conditional Sale Agreement assigned to the Assignee by this Agreement and Assignment, (iv) title to the units of the Equipment is validly vested in the Assignee, free of all claims, liens and encumbrances except only the rights of the Railroad under the Conditional Sale Agreement, (v) no approval of the Interstate Commerce Commission or of any governmental authority is necessary for the execution and delivery of the Conditional Sale Agreement, (vi) the Conditional Sale Agreement and this Agreement and Assignment have been duly filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act and deposited with the Registrar General of Canada under Section 148 of the Railway Act of Canada and that no other filing or recordation or depositing is necessary for the protection of the rights of the Assignee in any state of the United States of America or Canada, (vii) no marking of the Equipment other than as provided in Article 6 of the Conditional Sale Agreement is required to protect the rights of the Assignee in and to the Equipment, (viii) registration of the Conditional Sale Agreement or the Agreement and Assignment or the interest acquired therein is not required under the Securities Act of 1933, as amended, (ix) the Railroad is a duly organized and existing corporation in good standing under the laws of its State of incorporation and other states where it conducts its business and has the power and authority to own its properties and to carry on its business as now conducted, (x) there are no conditions, restrictions or requirements in the documents constituting the corporate charter or By-laws of the Railroad relating to or affecting the execution and delivery by the Railroad of the Conditional Sale Agreement or the enforceability thereof in accordance with its terms or requiring any approval of stockholders in respect thereof and (xi) neither the execution and delivery of the Conditional Sale Agreement, nor the consummation of the transactions therein contemplated, nor the fulfillment of the terms thereof will conflict with or result in a breach of any of the terms, conditions or provisions of any law, regulation, order, writ, injunction or decree of any court or governmental instrumentality, domestic or foreign, or of any agreement or instrument to which the Railroad is now a party or constitute a default thereunder;

(f) A favorable opinion of counsel for the assignee dated as of the Closing Date, stating that

(i) the Conditional Sale Agreement has been duly executed and delivered by the Owner and is a valid instrument binding upon the Owner and enforceable against it in accordance with its terms, (ii) this Agreement and Assignment has been duly executed and delivered by the Owner and is a valid instrument binding upon the Owner and enforceable against it in accordance with its terms, (iii) the Assignee is vested with all the right, title and interest of the Owner in and to the Conditional Sale Agreement assigned to the Assignee by this Agreement and Assignment, (iv) the above listed documents furnished at this Closing Date comply with requirements of this Section 3 and are in substantially acceptable legal form provided they are satisfactory as a credit matter to the Assignee.

The term "Business days" as used herein means calendar days, excluding Saturdays, Sundays and holidays.

SECTION 4. The Assignee may assign all or any of its rights under the Conditional Sale Agreement, including the right to receive any payments due or to become due to it from the Railroad thereunder. In the event of any such assignment any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Assignee hereunder.

SECTION 5. The Owner hereby:

(a) represents and warrants to the Assignee, its successors and assigns, that the Conditional Sale Agreement was lawfully executed and delivered by it for a valid consideration, that it has no reason to believe that the Conditional Sale Agreement is not a validly existing agreement, binding upon the parties thereto in accordance with its terms, and that assuming valid authorization, execution and delivery by the Railroad, the Conditional Sale Agreement is, in so far as the Owner is concerned, a valid and existing agreement binding upon the Owner and the Railroad in accordance with its terms and that it is now in force without amendment thereto; and

(b) covenants and agrees that it will from time to time and at all times, at the request of the Assignee, or its successors or assigns, make, execute and deliver all such further instruments of assignment, transfer

and assurance and do such further acts and things as may be necessary and appropriate in the premises to give effect to the provisions hereinabove set forth and more perfectly to confirm the rights, titles and interests hereby assigned and transferred to the Assignee or intended so to be.

SECTION 6. This Agreement and Assignment shall be governed by the laws of the Commonwealth of Pennsylvania; PROVIDED HOWEVER, that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act.

SECTION 7. This Agreement and Assignment may be simultaneously executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same instrument, which shall be sufficiently evidenced by any such original counterpart. Although this Agreement and Assignment is dated as of May 15, 1978, for convenience, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgements hereto annexed.

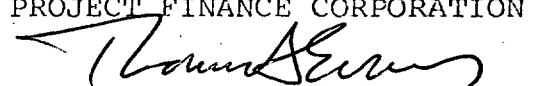
IN WITNESS WHEREOF, the Owner and the Assignee, pursuant to due corporate authority, have caused this instrument to be executed in their respective corporate names by their respective duly authorized officers and their respective corporate seals to be hereunto affixed and duly attested, all as of the date first above written.

ATTEST:


Secretary

CORPORATE SEAL

PROJECT FINANCE CORPORATION



President

ATTEST:


Vice President

CORPORATE SEAL

PITTSBURGH NATIONAL BANK

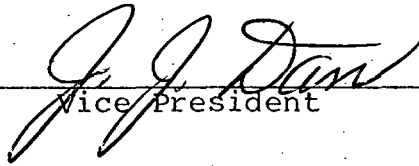
By 
Vice President

ACKNOWLEDGEMENT OF NOTICE OF ASSIGNMENT

The Pittsburgh and Lake Erie Railroad Company hereby acknowledges due notice of and consents to the assignment made by the foregoing Agreement and Assignment dated as of May 15, 1978.

THE PITTSBURGH AND LAKE ERIE
RAILROAD COMPANY

By


Vice President

COMMONWEALTH OF PENNSYLVANIA)
) SS:
COUNTY OF ALLEGHENY)

On this 30th day of June, 1978, before me personally appeared Thomas A. Evans to me personally known, who being duly sworn, says that he is President of PROJECT FINANCE CORPORATION, that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by the authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Lita A. Bueker
Notary Public

My Commission Expires:

RITA K. BURNS, Notary Public
Pittsburgh, Allegheny County, Pa.
My Commission Expires April 16, 1979

COMMONWEALTH OF PENNSYLVANIA)
) SS:
COUNTY OF ALLEGHENY)

On this 30th day of June, 1978, before me personally appeared Frank Murray to me personally known, who being by me duly sworn, says that he is a Vice President of PITTSBURGH NATIONAL BANK, that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by the authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Rita A. Buckner
Notary Public

My Commission Expires:

RITA K. BURNS, Notary Public
Pittsburgh, Allegheny County, Pa.
My Commission Expires April 16, 1979